P.J 111 of 94

G. R. S. IX-5]

Previous references.

1894—95

192

(L.R.)

File No. 133 of 94

Serial Nos. 1 to 10

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Mejor Part B for February 1899

SUBJECT.

Appeal of Ethuriche Gauda ~~about~~ regarding his claim to the Patelki ~~The~~ Patelki of Arakere Seringapatam Taluk.

WD 2233—GP—20,000—14-6-20

Endorsed R.

6

Before the Government of *His Highness* the Maharaja of Mysore.

Appeal No. 1073 of 1894-95

Appellant. Vs. Respondent.

Chunche Gowda
by M.s. Ramaswamy Iyer
Advocate.

Mari Gowda
by M.s. Narayan Rao

Notice served
7. 5. 95

Decision.

The appellant is admittedly a
illegitimate son of the deceased Patel.
The Respdt is a legitimate son of the
deceased Patel ~~Rajja~~ under and
is said to have been adopted by him
Three witnesses state that he was
so adopted in his infancy and
their evidence is corroborated
by the wife of the deceased - There
is no other evidence of this fact a
the appellant objects to the evidence
of the widow on the ground that she
(daughters) is closely related to the Respdt being his sister-in-law
objection is not without some force
In a criminal trial the respdt has
been described as Patel's son, & it
is doubtful — whether this

Thorn chgo. ordered the respdt. be released bail and that the duties money be taken from him.

Mungi Ameeto.

To Abdul Hakeem Sahib
Esq
Khan Bahadur

19/6/95

With deference to the views of the second Commissioner I cannot help differing from him in this case. The oral evidence for the adoption of the Respdt. cannot be said to be insufficient. It is confirmed by the fact that the Respdt. who is 40 or 45 years old has been brought up from his infancy by the deceased Patel with whom Respdt. lived in joint enjoyment of the estate for seven years, performed his funeral ceremonies and is still living with his widow. In a case of this nature we better evidence cannot be adduced. The adoption was long before the suit. I agree, under the circumstances of the case, with the Dy. Commissioner in thinking that the delay in the bringing of the suit and the fact of the appellant himself being a pensioner are.

I would therefore confirm the order of the Dy. Commr. in favour of the Respdt. and dismiss this appeal.

This 19th day of June 1895

Abdul Hakeem

Submitted
20/6/95

4

Under the circ[s] Mat[r] Growden
must be held to be the ~~—~~ adopted
of the dec[d] Potail and the appeal
agst the Dep[y] Com[rs] order Not be
Dismissed
23 6 95

Vice Chancellor

Spurious orders
accordingly
24-6-95

Before signing orders,
Plrs will be submitted
to the 2nd Deputy Counsellor
for Perusal
24-6-95

seen and
25/6/95

Submitted to the 3rd
Counsellor
Seen 25/6/95

25/6/95

Draft Decree
Sent 25/6

Signed
25/6/95

statement may be received as evidence
and if it is much weight cannot
be attached to it - The vague oral testimony
of three witnesses who are not particularly
related to the deceased Patel's family
is all that is left to support the case
of the respondent.

Against this evidence the affidavit
has adduced evidence to prove that
before his death the deceased Patel
went up a petition naming the appellant
as his successor among his other
nephews and other cousins. This
is very probable and three witnesses
who have attested the petition have
proved its execution - The D.J. Court
has not given any satisfactory reason
to reject this evidence which comes
only as it were from the blue.

It cannot be improper to presume
that Patel to be entirely unconnected
with the deceased Patel's family by
birth and the evidence of adoption
is by no means precise and conclusive
further reasons for the lord that
the appellant is the proper heir
who appointed Patel and he means
also to have bread to the Kanarese.
The order of the D.J. in reversal of the order
of the Dy Collector that appellant

Portuguese
case - appeal
received
20/4/98

5

Petition No 2333

1) Summons

2) Statement of claim

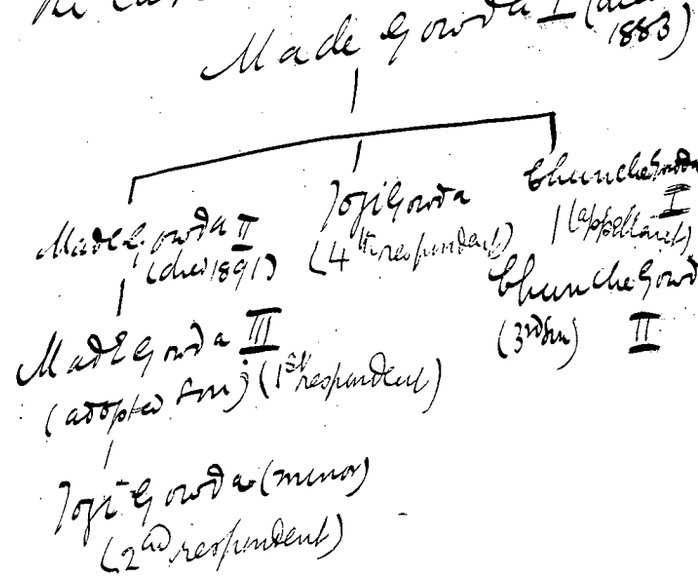
3) Respondent's notice of appeal against decree of the 1st Court

4) Decree of the 1st Court holding the appellant entitled to the property in dispute

5) Record of Arbitration

6) Council Case

The following genealogical tree is necessary for understanding the case


Madegonda I (died 1883)
Madegonda II (died 1891)
Jogigonda (4th respondent)
Chunchegonda I (1st appellant)
Madegonda III (adopted son) (1st respondent)
Jogigonda (minor) (2nd respondent)
Chunchegonda II (3rd son)

In Govt. Proc No 2504 of 28/6/95
Pet I: 111-94

Govt held that Madegonda III was the adopted son of

Gen. Serial No. 32.]

1894

No. 673

Name of Petitioner. Choondie Gowda - represented by Mr. S. Ramaswamy Iyer - advocate

Village.

Taluk. Bangalore

District.

Date of Arzi. 30-6-94

Date of Receipt. 30-6-94

Date of Disposal.

No. of Enclosures. Two (Excluding Vakalat).

ABSTRACT.

Appeal against the order of the Dy. Comr. Kolar District in Rev. Appeal No. 22 of 1893-94 on the file of this Court - relating to the Patel of Arahare village Sarjapur Taluk.

The Arzi & petition and the order appealed against are in English - The endorsement preferred in the petition is as follows: -

"Patel Made Gowda who died lately has no issues - He has therefore adopted Sons - Choondie Gowda is the only eligible, clever and reliable man in the family of Made Gowda. In the last moments of Patel Made Gowda he submitted a petition to the Taluk requesting

Camp sufficient as time by 2 days. Sub-pro[illegible]

133 94

Appeal 7/11 [illegible]

endorsement in the Cowle should not be issued. The 7th and 9th days were holidays and the appeal was filed on the 92nd day. Hence the appeal is in time. Send ahead in a regular suit book for hearing. Give notice to both parties. Call for entire records.

Dropped
MR 7/12

Made Gowda II, the deceased husband
This question must be held to
be res judicata - though the
Asst Comr has allowed the
Question to be reopened
under the new Rules of
Ceremonial proceedings (about the independence of regular-Lines of succession)
which do not embody the
views of Govt at present.

But the question at issue
is not really the question of
adoption but whether Made
Gowda III can resign the
Patelship absolutely in favour
of the 3rd respondent Channe
Gowda, (a stranger) to the
detriment of the appellant.
The Asst Comr has found
that Made Gowda III has practically
treated & sold the office & that
the office has
the effect of accepting the
resignation & appointed the
nominee of Made Gowda III
as the representative of Channe Gowda
as permissible. The Dy Comr

* The proper view seems to be
that a village officer can relinquish
the office absolutely & out out
in favour of any individual,
the office being at the disposal
of Govt.

10

8

Before the Government of Mysore.

Appeal No. 65 of 1895-96

Appellant.	Vs.	Respondents.
Chanche Gowda		1. Gudegowda 2. Jogi Gowda I 3. Jogi Gowda II

Parties absent

Advocates for appellant

Advocates for defendant

Sub to 2nd Counsellor

Witness are There was a telegram from the 1st respondent
examined which was received by me on Sunday
& evidence is adjd. through the Secretary. By mistake the word
to 10/9/98 "good cause" was not written in the telegram
Subsequently 1st counsellor As the appellant has not taken steps
1/ was 8.9.98 even to serve notice of the hearing
of appeal on respondents, the order dismissing appeal
seems to be proper

8/9/98

An application for adjournment from the appellant was received by the Asst. Dewan in my absence, on the 9th inst. but was received yesterday. but was received to-day.

Sub to 1st Counsellor
10/9/98

R2 4 pm 7-9-98

6/9/98

Under the circumstances of the case I shall not adjourn appeal to 10/9/98

9

10/10/95

Mitteilung - Empfehlung für Abonnement

Adj. 65 Dec.

10/10/95

Exp.

Vi ... am 775.

29 10 95

10

Before the Government of Mysore

Appeal No. 68 of 1897-98.

Appellant.	Vs.	Respondents
Channchi Gauda (Plff)		1. Bade Gauda (1st Defdt.) 2. Joji Gauda (2nd Defdt.) Minor by guardian 1st Defdt. 3. Joji Gauda (4th Defdt.)

Claim to the Police Patelship of Arakere in the Seringapatam Taluk.

Order 5th Sept 2
Sub 2 5th Commr
by 28/8/98

9594

1st Witness for Plff
2nd Witness for Plff. Exd. Ex. A
an Extract of a Register not original Exd Ex. B
2 Witnesses for Defdts Exd Ex. C & D

27 8 98

Questions
1. What appellate
Court have
II. Is appellate order
appealed against
in the nature of the decree?

27 8 98

13-2-99

11

10/2/55

Appt present: Resp'ts absent

Order (nonsuit)
P/S.

Question of costs to be argued
D'ts order equitable,
Plaintiffs being responsible
the appeal

12

Gen. Serial No. 32.1

1894

(1)

No. 1073

Name of Petitioner [illegible]

Village.

Taluk. Bangalore

District.

Grant sufficient
Enquiry time to 2 days.
Issue Notice.

[illegible]
L.R. 133 9/11

Department
Bangalore

Dismissed
7/11/94

The Undersigned in the Case
filed near the Lucas Judge
[illegible] the Undersigned
[illegible] the Appeal
[illegible]

Grand Appeal in
Regular Suit
Suit for Money
Value to be stated
Call for Interrogatories

24/12

Abstract.

[illegible]
Regular Civil Appeal No. 22 of
1893 - Original petition dismissed -
Village Taluk

The appeal petition was by agent
appeared in English - The Vakalat
appointed to sign petition in pleader -

[illegible]
[illegible]
Bangalore - Originally filed, and
[illegible]
[illegible]
[illegible]
[illegible]

Pet 1046

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1073
dated 30 Oct 1894 received at the
Dewan's Office from Chowde Gowda
of Arakere, Vening apal
Taluk, appealing against
the Dy. Commr's order
in Rev. appeal No. 2 of 1893
requesting the Pattis of
Mr Neill &
is forwarded, together with its Two
enclosures, to the Dy. Commr.
Mysore District for
Submission of the entire
proceedings connected
with the case ~~to reach~~
~~this office on or~~
~~before~~

2. The petition with its
enclosures should be returned

By Order,

Asst

Chief Secretary.

BANGALORE, 22
Dec 1894

M.G.C.P. Bangalore.—3-5-94.—1,000.

Wer Lust hat sich
sich in Circumferenz aus der Asphalt
und die Kälte die Luft, die Sonne -
Vergnügen die Nacht in die Sonne -

1/11.

No. 984
Enclosures No. Rev: Pro: 16

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT, (3)

Dated Mysore, 15th March 1895.
20

From A. Rangasamy Iyengar Esqr. B.A, B.L.
Deputy Commissioner,
Mysore District.

To

The Chief Secretary to the ~~Dewan~~ Government of Mysore.

SIR,

With reference to your O.m. PA/1046 dated 22nd December, 1894, I have the honor to submit herewith, the entire Proceedings connected with the appeal Petition, of Chowdegowda of Arehere, regarding the patels of Arhere village, Seringapatam Taluq. I beg to add, that the words "civil case" in the first section of the copy of my order, are incorrect, and that only a criminal case was referred to in my original order.

The petition and enclosures received with the above are herewith returned.

I have the honor to be
Sir
Your most obedient servant

Ulwapaiyar
For Deputy Commissioner
Mysore District

Compd.

15

(General Serial No. 30.)

1895

12362

Pol. 512

From

The Secretary
Mysore

To

The Chief Secretary to the ~~Govt~~ Govt
of Mysore.

Dated 15th March 1895

Despatched 20th

Received

Enclosures No. Revenue Proceedings

General No. 984
No.

L.R. 132-94-B

Submits proceedings in re appeal petition of Chowde'gowda of Arekere regarding the Patelship of that village

Pete
22.3.95

Rec'd 23/3

The Chief Secretary
Govt of Mysore

3. The Appellant was no party to any case either Civil or Criminal in which the adoption of the Respondant was recognised -

4. The deceased's widow being sister of the Respondant admits adoption collusively and fraudulently -

5. The Deputy commissioner erred in doubting the petition sent by Amche in the name of the deceased praying that the Appellant may be appointed to succeed him -

6. The Deputy Commissioner has not taken into consideration the report of the Amildar and the evidence taken by him in which report the Amildar clearly finds the genuine-ness of the petition and also supports the claims of the Appellant.

7. The Mahazar produced herewith attested by the villagers clearly proves the genuineness of the petition and

(General Serial No. 30.)

180

From

To

The Chief Secretary to the Bureau
of Navigation.

Dated

Despatched

Received

Enclosures No.

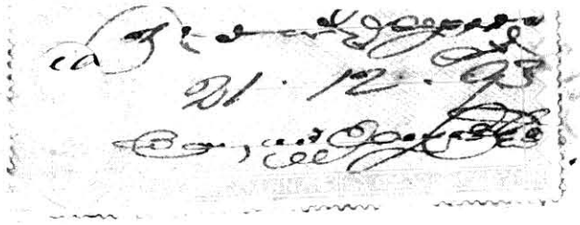
General No.

No.

Pmd 21. 12. 93

Secs Appeal no 24
27. 2. 94

40/1



(5)

In the Court of the Deputy Commissioner, Mysore District

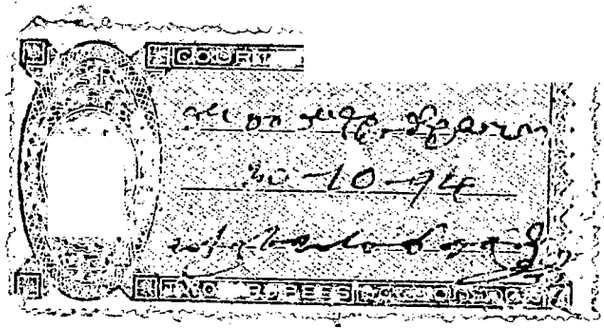
Rev. Mis. Appeal No. of 1893

Appellant: Chooratchegowda

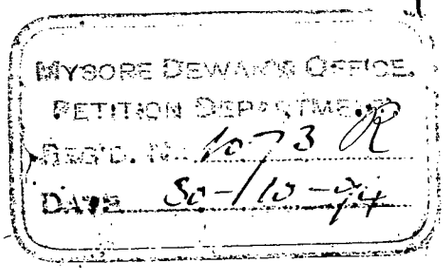
Respondent: Guadegowda.

The above named appellant begs to appeal to this Court against the Order of the Sub. Div. Officer Seringapatam Taluk for the following reasons namely:

1. That one Guadegowda who was the Police Patel of Arakere died issueless in June 1891.
2. That a few days before his death he made an application to the Amildar to appoint the petitioner in his stead
3. The Amildar after holding enquiry reported to the Sub. Division Officer recommending the petitioner for the Patelship.
4. Meanwhile another Guadegowda came forward to claim the appointment alleging that he is the adopted son of the deceased
5. The Sub. Division Officer has appointed him as the Patel without making full enquiry as regards the alleged adoption, and



2 Rs stamp affd



Vakalat 2 Rs stamp affd. endrsd

Issue 2 copies

Before the Government of Mysore

Regular Appeal No. 25 of 1924-25.

Appellant Respondent

Chowrie Jada & three Ors

The Appellant respectfully begs to appeal to this Honorable Court against the order of the Deputy Commissioner Kolar District in Criminal Revision Petition No 22 of 1923-24, on the following grounds:—

1. The Deputy Commissioner erred in holding that the Respondent had been acquitted as the alleged non payment was decreed in a civil

The Dy Comr has explained that the word "Civil" in the copy of his order was a clerical error for "Criminal"

2. There has been no civil case on which the decree of the Respondent has been recognised.

3. The

19 and the claim of the appellant
& the appellant being the son
of the wife of the deceased &
the devisee, the Bequest being
in the name of hope made mad
fide of the appellant
& the rule of the Orphans Court
as against Ten, weight & evidence
and the probabilities of the Case

Maryland
30th October 1843

S. Mc Mahon
Attorney for Appellant

4 dated here given an endorsement to that effect to the appellant which is here-with filed.

6 The petitioner begs to submit that the Respondent is not the adopted son of the deceased inadequate at all

7 The Sub Divisional Officer is wrong in having declared on the Miscellaneous side that the Respondent is the adopted son of the deceased inadequate

8 The Sub Division officer has erred in not examining the respectable Inmates of the village though requested by the appellant to do so as regards the alleged adoption

9 Considering the admitted ages of the Respondent and his adoptive mother it will be clear that the story of adoption is false

10 The appellant is prepared to get a Mahazar been prepared by the villagers as regards the falsity of the alleged adoption.

11 The appellant being the brother of the deceased inadequate is entitled to succeed.

12 The appellant begs that your honour may be pleased to reverse the order of the Sub Division officer and appoint him as the patel of the village

21/12/93. G Srinivasachar
Pleader for appellant

(5)

ನಂಬರ್
1073

ಹುಜೂರು ದಿವಾನ್ ಕಚೇರಿ ರೆವಿನ್ಯೂ

ಶ್ರೀರಂಗಪಟ್ಟಣ ತಾಲ್ಲೂಕು [illegible] ಕೆರೆ ಗ್ರಾಮದ [illegible]

ಚೆಂಬೆ ಗೌಡನಿಗೆ ಇಂಡಾರ್ಸ್ ಹುಕುಂ

ಮೇಲ್ಕಂಡ [illegible] ಕೆರೆಗ್ರಾಮದ [illegible] ಅಪೀಲ್

ಪ್ರತಿವಾದಿ ಮುಂಡೆಗೌಡನ [illegible] ಅಪೀಲು

[illegible]

[illegible]

ಹುಕ್ಕುಮಿನ ಮೇಲೆ ಅರ್ಜಿದಾರ ಬರೆದು ತಾರೀಕು 30-10-94

ನೇ ತಾರೀಕು [illegible] ಅಪೀಲ್ ಅರ್ಜಿ [illegible]

ಅಪೀಲ್ ಪ್ರತಿವಾದಿ [illegible]

ನಾವರ ಹುಕ್ಕುಮನ್ನು [illegible] ಮಾಡಿ [illegible] ಅಪೀಲನ್ನು [illegible]

[illegible] ಅರ್ಜಿ [illegible] ಗಳನ್ನು ವಾಪಸ್ ಮಾಡಿ [illegible]

ಜುಲೈ 19-7-95.

By Order

[illegible]

for Rev: Secretary

[illegible]
-7-95

[illegible]

ಅರ್ಜಿದಾರನಿಗೆ [illegible]

1898

In person
2/5/98
16/3/98

Subd C

The appeal is on 10½ stamp
Stamp supplied
The order appealed against
is dated 28. 12. 97 (Date at
foot of the judgment 28/12).

In time

In the Dist Mr's judgment it is
to be that the no 2547 28/8/95
FF 111-94
~~of~~ an intermediate order
this Ct

Resp ent
My 2/4/98

Send Rd.
Please print of 97 111-94

Recd 5.15 pm
CF
2/4/98

Petition open file No 111 of 94
stup.
98
Ad

Rs 3.
11/4/98

No. 2333 (M. C. 1968
97-98

Name of Petitioner Chenchegauda

Village Arakere

Taluk Srirangapatana

District Mysore

Date of Arzi

Date of Receipt 16-3-98

Date of Disposal

No. of Enclosure 2 Judgments.

ABSTRACT

Appellant-
Chenchegauda - ~~et~~

Respondents
1. Madegauda
2. Jogi Gauda
Immediate Guardian
Madegauda

2nd appeal against the decision of the Dist Court of Mysore in Rev: Appeal No: 19 97-98 reversing the decree of the ~~Dist~~ Court of Srirangapatana in Rev: referred Case 9 of 1895-96 regarding the Patailee of Arakere Village Srirangapatana Taluk & ~~for~~ the recovery of Rs 52½ being half

the Polage for 1892-93, 93-94
& 94-95 from the 1st (Defdt)
Respondent -

The grounds of appeal are
as follows:-

(1) That the Ct of the first instance,
in appreciating the evidence
adduced, decided that the
alleged adoption of Made Jauda III
was illegal & rightly decreed
in favour of the appellant
as the legal descendant of
original Lukdar for the Polaite
office

(2) That the 1st appellate Ct Erred
in reversing the decree of the
lower Ct inasmuch as the
question of adoption was not
fully established nor the
evidence & the authorities
quoted in the judgment of
the lower Ct appreciated -

(3) That the decision of the
Lower appellate Ct is opposed
to facts, weight of evidence
& the ~~probable~~ probabilities
of the case

Prays that the decision of

Regd. of the C.C. of Revision.

22

Read

L.R. 132-94-H

Petition registered as No. 173 dated 3rd August 1894 from Kanaiya Lal Das of Jhalia, praying special Talati Appointment for village Dy. Commr's decision in Rev: Appeal No. 22 of 1893-94, declaring Partiefere with the Talati Rocks in Pet. Petition Officer under Appointing Pr Respondent Trade Praja of the Patel of the Village

2. The records connected with the case received with letter No. 984 dated 15th March 1895 from the Dy. Commr. Surat District

Order Passed: No 2504 dt 25-6-95

The Appellant who is a brother's son of the deceased Patel claims the office as against the Respondent who is the brother's son of the deceased Patel's widow, alleged to have been adopted by the said Patel. Though the evidence adduced in support of

the

Gen. Serial No. 31.]

189

(4

From

To

Dated

Despatched

Received

Enclosures No.

General No.

No.

22

+ It is confirmed by the fact that the respondent who is over 45 years old has been brought up from his infancy by the deceased father with whom respondent lived in joint interest till the death of the former; performed his funeral ceremonies and is still living with his issueless widow. In a case of this kind, no better evidence can as a general rule be adduced. The adoption was long before the birth of the appellant who in his deposition before the assistant on 17th June 1892 has not positively denied the adoption.

The exception is almost a verbal one & cannot be held sufficient. Let the Order of the Collector be confirmed & the appeal dismissed with costs.

2. The records are returned.

28/6

Asstt. Commr. of Revenue

I agree. Commr. of Revenue

Papers returned

28/6.

Petn No: 2333

27

2

of the Court of the 1st instance
may be confirmed setting
aside the Judgment of the
Lower appellate Ct & that
the applicant may be per-
mitted to engage the service
of a legal practitioner for
placing the facts of the case
concisely before the 2nd Appell
Court & to argue the same
if necessary on the date of
hearing -

Gb
24/3/93.

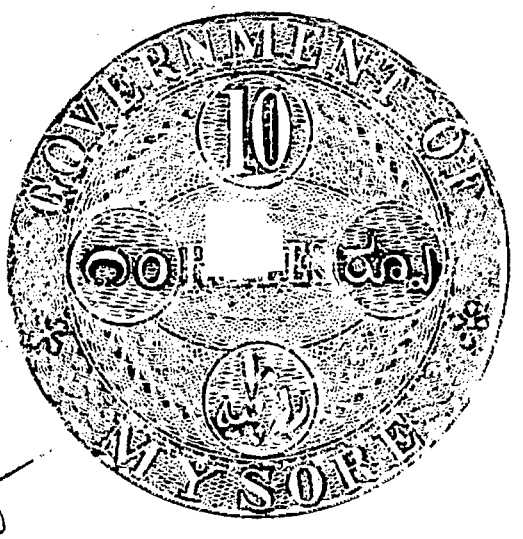
Enclosures:-

1. Judgment in Rev: Petition
Case No: 9 of 95-96 of the
Spl Court of Jt Munsiff
Rocks -

2. Judgment in Rev: Appl
No: 1 of 97-98, of the Dy Co
of Mysore -

2353

28



MYSORE COURT FEE
MYSORE GOVT'S OFFICE
PETITION DEPARTMENT
REG'D. NO. 2333
DATE 16-3-98

In person
16/2/98

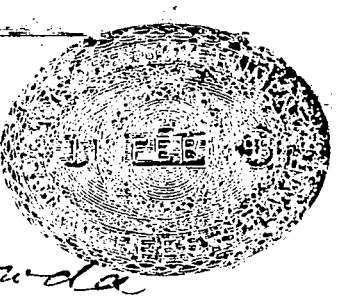
In the honorable Court of the
Revenue Commissioner
for the Government of Mysore

Second Appeal No 68 of 1897-8

Chunchegowda residing in Arakere, Serig - patam Taluk	Appellant	In the Court of the Assistant Commr	In the Court of the Deputy Commr
1. Madegowda 2. Gopigowda minor by guardian Madegowda.	Respondents	1st Respondent Appellant	1st Respondent Respondent

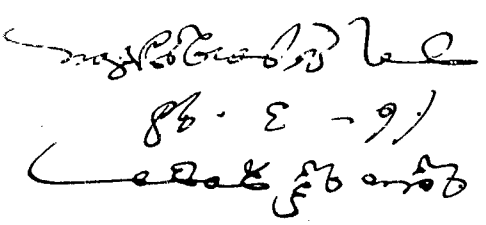
Suit for Section 2 of
the Land Revenue Code.

The appellant Chunchegowda
above-named begs to present



Madegowda III. The lower ~~appe~~ appellate Court ought to have asked the 1st Respondent to get his adoption established in a Civil Court before asking the Revenue authorities to recognize the same. The documentary evidence produced in favor of adoption do not in any way prove the same and much less against the appellant. That there was no such adoption is clear from (1) the oral evidence adduced by the appellant in the original Court & (2) the presentation of a petition by Madegowda I to the Taluk authorities asking them to appoint the Son of appellant (which has been proved in the original Court and which he would not have presented if the adoption by him of Madegowda III was true.)

The lower appellate Court has based its judgment on mere inferences which are not drawn from the evidence and which are opposed to facts and usage.



(1321) 2000288928

Pet 7111-94 P2 25-4-98

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

Registered No. 2333 dated 16th March 1898

received at the Dewan's Office from

Chunche Ganda of Arakere Seringapatam Taluk, against the decision of the Deputy Commr Mysore District, regarding to office of Police Patel of the above village

is forwarded, together with its enclosures, to the Deputy Commissioner of the Mysore District for submission of the entire proceedings connected with the case.

2. The petition with its enclosures should be returned

By order,

C2.

BANGALORE, 25 April 1898

For Chief Secretary.

25 April 26

Draft

Bln.

22/4

M.G.C.P.B.—25-4-95—1,000

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this Court against the
judgment and decree passed by the
Deputy Commissioner, Upper District
in Revenue Regular Appeal No I of
1897-8 reversing the decree of the
Assistant Commissioner, Fenchocks
in Case No 9 of 1896-7, for the
following among other reasons:-

I. That Nadiegonda (Plaintiff
of the Appellant) was the Para-
-wardar, Patel of Arekere Village
and held the office till his
death in December 1895; that
he had a dispute with the Appellant,
respondent (the Defendant in
the Court of 1st instance) and
Madegonda; that this Made-
-gonda, being the eldest
son of the Appellant, after
doing the Patel duties after
the Appellant's alleged death
took the consent of the Plaintiff
and motion of Barawad
being made out in his name
till 97, when he died, that a
few days before his death
he gave in a petition to the
Talati, Sircles for appointing

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the Son of the Applicant to the Land
Office; that the said Madegorda
died before the said application
was disposed of and the Land
Office on enquiry found that the
petition was true and correct
(Vide the data 5th '92); that after
the said Margherita's death, the
said Applicant Don Madegorda Jr.
was appointed as Guardian
by Court Proper and behind
the back of the Applicant on the
Miscellaneous side which therefore
do not affect the Applicant in
any way; that the Madegorda III
assigned his right in the Office to
a person Stranger by virtually
selling it home to the exclusion
of all the members of the Master
family that the Guardianship
was made out in the name of the
minor Son of the said Madegorda III
even though he did not want the
same for his minor Son; that the
3rd Defendant, a person Stranger
as said above was appointed
Guardian to the minor Sabatan
till he attained his majority.
The Applicant brought a
Regu

(10) Proceedings of the Govt of Mysore

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Appellant – H
Chenche Gowda I
(capt Hh)

Respondents
(1) Mada Gowda III
(2) Jogi Gowda, minor by his guardian the 1st ~~deft~~ respt
(3) Chenne Gowda
(4) Jogi Gowda brother of appellant
(capt Oh)

L.R. 133-94-9

Draft for appeal
Rec'd by 1st Counsel
dy 17/2/98.

Read:–

(1) Petition of appeal No 68 of 1897-98, presented by Chenché Gowda I of the Arakere, Seringapatam taluk, against the decree of the Dy Commr, Mysore Distct, dismissing the suit brought for the recovery of the office of Police patel of the ~~aforesaid~~ village

(2) Records of the case received with letter No 1331 of 16-5-98 from the Dy Commr Mysore Distt

Read again:–
Govt Proceedings No 2504 7
Pet 7 111-94
dated 28-6-95

The appellant's father Mada Gowda I was the hukdar patel (Police) of

Appr
AH

Print in Enclosure in the Trs after copies in Mss.
AH
17/2/98

Prepare Kan cert
dy 18/2/98.

Arakere in the Seringapatam
taluk. ~~and was~~ On his death
in 1883 he was succeeded by his eldest
son Made Gowda II. On the
latter's death in 1891, the 1st
respondent (Made Gowda III)
claimed the office as the adopted
son of the deceased in preference to
~~against~~ Chunche Gowda II,
son of the present appellant and
nephew of the said deceased. ~~[illegible]~~

2. The claim was, on 22-11-93
allowed by the Subdn Officer
and the appeals preferred by
Chunche Gowda II to the Dy
Commr and the Govt were
rejected on the 21-7-94 and
28-6-95 respectively.

3. In February 1896, the
1st Respt applied to the
amildar for the transfer
of the patali varavard to the
name of the 3d Respt Chenne
Gowda in whose favor he
had absolutely relinquished
his hak. The Subdn Officer,
to whom the application

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1st instance for the Barrand being made out in his name. The Court entered into evidence on the question of Radegonda III's adoption (which question was the only one to be decided in the case) and distinctly found that there was no adoption and gave a decree in favor of the appellant.
(Judgment of the Court of 1st instance produced)

II. Radegonda III sent on his behalf and on his minor brother Jamnadas Chamnegonda (the first 2 defts in the original Court) then brought an appeal to the Deputy Commissioner against the decision of the original Court. The Deputy Commissioner without properly appreciating the evidence adduced in the case and without understanding the bearing of the authorities quoted by the Assistant Commissioner in his judgment on the case has reversed and set-aside the decision of the lower Court on vague reasons. He has not distinctly found that there was adoption of

(The judgment of the lower Appellate Court is herewith produced for kind perusal)

II The decision of the lower Appellate Court is wrecked & based on facts, weight of evidence and the probabilities of the case.

III The Appellant respectfully prays that the decision of the lower Court be set-aside and that the Court of first instance be confirmed.

Bangalore 2
16th March 1933

Appellant

The Appellant begs that this Honourable Court may be pleased to permit him to engage the services of a legal practitioner for placing the facts of the case & counsel before this Honourable Court and to argue the same if necessary on the date of hearing.

Appellant

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Gat consent in the decree annexed as ¶ 4
The Ds Comm'r ~~decree~~ report
equitable and ~~the effect~~ accordingly
direct the Mistress of the Robes

Secy
17/4/99.

ABP
17. 2 99.

To Ds Comm'r Myore &c. returning
V+ Records.
- Ds Comrs of Mrs Wards
Est Ledger.

+93 - 5-3608
22-2-99

REVENUE DEPARTMENT
Gl. No. 2413
MAY 1898
DEWAN'S OFFICE

From

The Deputy Commissioner,
Mysore District.

To

The Secretary to the Govt. of Mysore,
Revenue and General Departments.

Dated 16th

Despatched

Received May 1898.

General No.

No. 1331

Enclosure No. Petition No. 2333 with papers and two files of records.

Submitting the enclosed proceedings connected with the petition of Chunnis Gonsalves of Chamiers in the Seringapatam taluk

Petition 16.5.98

Rep: put up (27.III.94)

Ak
2/6/98

Subd

MG
2/6/98

No. 1331

Enclosure No. Petition Nr. 2033 with Memorandum and two files of records.

DEPUTY COMMISSIONER'S OFFICE,
MYSORE DISTRICT,
Dated Mysore Cutchery 1895

To

The Secretary to the Government of Mysore,
Revenue and General Departments.

SIR,

As called for in your official memorandum No. Rev. 111.94 dated 25th April 1895 I have the honor to submit herewith the entire Proceedings connected with the petition of Channchegowda & others, herein, having certain inhabitants, appealing against the Ryots order regarding the office of Police Patel of the said village.

2. The enclosures of your memorandum under reply are herewith returned.—

I have the honor to be,
Sir,
Your most obedt servant

H. Whitamore Jeffs
Dy Commissioner
of the Mysore District

Counted
Wgt

was ~~submitted~~ refused, ~~for orders~~
accepted the resignation
so far as the 1st respondent
was concerned, but directed
the registering of the office in
the name of the 2nd respt
~~(the name of the 1st respt)~~ and the appointment
of the 3d respt as grantee
~~of the same~~
~~Assistant Secretary~~.

4. In April 36, the respts
brought the present suit in the
Supreme Court for
the recovery of the Postal
Office and of the profits due for
~~the~~ 3 years from 1892-93
and urged, inter alia, that
the alleged adoption of the
1st respt by Mrs Lonsdale
II, ~~was not~~ did not take place as a matter
of fact and that
the relinquishment of the
office in favor of a stranger
who was ~~introduced to~~ ~~defendant~~ his own kith
& kin was invalid

5. The Asstt Commissioner
at French Rocks to whom
the suit was transferred
for disposal during

that the adoption was not established
proved and that every
member of a Hindu family
should have his name entered
the appellant to the appellant but
disallowed the claim to the
property. On appeal by the
respondents, the Advocate
disagreeing with the decision
Commr on the both points
noted above, reversed the
decree and directed that
the 2nd Respt be registered
as the adopted son, a
compromise ground being
appointed during pendency
Hence the present appeal
to Govt

Mr Menon.

The question of adoption having
been decided by Govt in Pro
No. 25047 Pet-III-94 dt 28/6/95 after hearing
Counsel on both sides, it cannot now
be reopened. It is understood
that the Board has appointed
the appellant son as intended
during the 2nd respondent's minority

It further decided that the appellant
is entitled to register as a Hindu
whose claims ought to be considered
in the matter of inheritance

5732-9

No. 24 III of 94

661

21/2/99

P 2

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(10)

1898-99

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 21st February 1899

No. 5732-9
Pet. F. 111-94

Dismissing the appeal of Chunchegauda of Arakere, Seringapatam taluk, regarding his huck to the police pateli of the village.

MGPPB—1-3-99—200

Proceedings of the Government of Mysore, Petition, dated 21st February 1899.

Appellant.		*Respondents.*
Chunchegauda I. (Original plaintiff).	*vs.*	1. Madegauda III. 2. Jogigauda, minor by his guardian the 1st respondent. 3. Channegauda. 4. Jogigauda, brother of appellant (Original defendents).

READ

Petition of Appeal No. 68 of 1897-98, presented by Chunchegauda I of the village of Arakere, Seringapatam taluk, against the decree of the Deputy Commissioner, Mysore district, dismissing the suit brought for the recovery of the office of police patel of the said village.

2. Records of the case received with letter No. 1331, dated 16th May 1898, from the Deputy Commissioner, Mysore district.

READ AGAIN—

Government Proceedings No. 25047—Pet. F. 111-94, dated 28th June 1895.

The appellant's father Madegauda I was the huckdar patel (Police) of Arakere in the Seringapatam taluk. On his death in 1883, he was succeeded by his eldest son Madegauda II. On the latter's death in 1891, the 1st respondent (Madegauda III) claimed the office as the adopted son of the deceased in preference to Chunchegauda II, son of the present appellant and nephew of the said deceased.

2. The claim was, on 22nd November 1893, allowed by the Sub-Division Officer, and the appeals preferred by Chunchegauda II, to the Deputy Commissioner and the Government, were rejected on the 21st July 1894 and 28th June 1895, respectively.

3. In February 1896, the 1st respondent applied to the Amildar for the transfer of the pateli baravard to the name of the 3rd respondent, Channegauda in whose favor he had absolutely relinquished his huck. The Sub-Division Officer, to whom the application was referred, accepted the resignation so far as the 1st respondent was concerned, but directed the registry of the office in the name of his minor son, the 2nd respondent, and the appointment of the 3rd respondent as gumasta of the minor.

4. In April 1896, the appellant brought the present suit in the Sub-Division Officer's Court for the recovery of the pateli office and of the potgi due for three years from 1892-93, and urged, *inter alia*, that the alleged adoption of 1st respondent by Madegauda II did not take place as a matter of fact and that the relinquishment of the office in favor of a stranger, which was prejudicial to his own huck, was invalid.

5. The Assistant Commissioner at French Rocks, to whom the suit was transferred for disposal, holding that the adoption was not satisfactorily proved and that every member of a huckdar family should have his turn, decreed the office to the appellant but disallowed the claim to the potgi. On appeal by the respondents, the Deputy Commissioner, disagreeing with the Assistant Commissioner on both the points noted above, reversed the decree, and directed that the 2nd respondent be registered as the baravardar, a competent gumasta being appointed during his minority. He further decided that the appellant should be registered as a hissedar whose claims would be entitled to consideration on the occurrence of a vacancy. Hence the present appeal to Government.

No. 5732-9—Pet. F. 111-94, DATED BANGALORE, 21ST FEBRUARY 1899.

ORDER THEREON.—The question of adoption having been decided by Government in Proceedings No. 25047—Pet. 111-94, dated 28th June 1895, after careful consideration, it cannot now be re-opened. It is understood that the Deputy Commissioner has appointed the appellant's son as gumasta during the 2nd respondent's minority. The Government concur in the decision arrived at by the Deputy Commissioner which is equitable, and accordingly direct the dismissal of this appeal.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Mysore District, with vernacular records.
The Deputy Commissioners of other Districts.

Ex.d.—H.A.R.